

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

I.T.A No.6129/Mum/2025
(Assessment Year: 2017-18)

Lalit Kumar Mohanlal Jain 1401/C, Gundechha Garden DattaramKhamkar Marg Lalbaug, Mumbai-400 012 PAN: AABPJ0792M	vs	ITO, Ward 20(2)(1), Mumbai Piramal Chamber, Mumbai-400 012
APPELLANT		RESPONDENT

I.T.A No.6077/Mum/2025 - A.Y. 2017-18
I.T.A No.6078/Mum/2025 - A.Y. 2017-18

Lalita Bharatkumar Jain 903/B, Deepak Jyoti Tower, G.D. Ambekar Marg, Kalachowki, Mumbai-400 033 PAN : AAEPJ4659E	vs	DCIT Circle 20(1), Mumbai Piramal Chamber, Mumbai-400 012
APPELLANT		RESPONDENT

Assessee by : Ms. Ridhisha Jain (virtually appeared)
Respondent by : Shri Surendra Mohan (SR DR)

Date of hearing : 26/11/2025
Date of pronouncement : 28/11/2025

ORDER

Per Bench:

This bunch of three appeals of the assessee were filed against the orders of the National Faceless Appeal Centre(NFAC), Delhi [hereinafter, 'Ld.CIT(A)] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') for the Assessment Year 2017-18, date of order 27/02/2025 in respect of ITA 6129/Mum/2025; 11/07/2025 & 14/07/2025 in respect of ITA Nos 6077 & 6078/Mum/2025, respectively for A.Y. 2017-18. The impugned orders emanated from the orders of the Learned Income-tax Officer, Ward-20(2)(4) passed under section 143(3) of the Act, date of order 28/12/2019 in respect of ITA 6129/Mum/2025; and in respect of ITAs 6077 & 6078/Mum/2025, passed by Assessment Unit, Income-tax Department passed u/s 147 r.w.s. 144B, date of order 16/05/2023 and passed u/s 272A(1)(d) of the Act, date of order 02/11/2023.

2. All the appeals have same nature of facts and a common issue. Therefore, we pass a common order for both the assesseees. ITA No 6129/Mum/2025 & ITA No.6077/Mum/2025 have common facts and common issue where ITA No.6078/Mum/2025 pertains to levy of penalty u/s 272A(1)(d) of the Act.

ITA No.6077/Mum/2025 is taken as lead case.

ITA No.6077/Mum/2025

3. We have heard the rival submissions and perused the material available on record. The Ld. AR submitted that the assessee had filed the original return of income under section 139(1) of the Act. Subsequently, a notice under section 148 was issued for reopening of the assessment. During the reassessment

proceedings, the Ld. AO observed that the assessee had claimed exemption under section 10(38) of the Act amounting to Rs.94,23,637/- in respect of long-term capital gains arising from the sale of shares of "Panafit Industries Ltd." The Ld. AO rejected the assessee's claim and treated the entire transaction as a bogus penny-stock transaction. Consequently, the amount of Rs.94,23,637/- was added to the total income of the assessee.

Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). However, the Ld. CIT(A) passed an ex-parte order for non-prosecution of the appeal, thereby upholding the addition made by the Ld. AO. The assessee has now filed the present appeal before us. The Ld. AR prayed for setting aside the matter to the file of the Ld. AO for de novo adjudication.

4. The Ld. DR supported the orders of the revenue authorities. However, the Ld. DR did not raise any objection to the prayer for restoration of the matter.

5. In our considered view, the assessee had claimed exemption under section 10(38) of the Act in respect of long-term capital gains amounting to Rs.94,23,637/- arising from the sale of shares of "M/s Panafit Industries Ltd". The said amount was added to the total income as the assessee could not furnish the requisite documents before the authorities below. Further, the Ld. CIT(A) passed an ex-parte order without considering the evidences intended to be relied upon by the assessee. We find that adequate and reasonable opportunity was not afforded to the assessee. Accordingly, we deem it appropriate to restore the matter to the file of the Ld. CIT(A) for verification and de novo adjudication. We

clarify that we have not expressed any opinion on the merits of the case, so as not to prejudice the appellate proceedings. Needless to say, the Ld. CIT(A) shall grant the assessee a reasonable opportunity of being heard before passing a fresh order. The assessee, in turn, shall extend full cooperation and diligently participate in the set-aside proceedings.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

ITA No.6077/Mum/2025

7. The facts and circumstances in this appeal are identical to the facts and circumstances in the appeal ITA No.6129/Mum/2025, which we have already decided above. Therefore, the decision arrived at above shall apply mutatis mutandis to this appeal also.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

ITA No.6078/Mum/2025

9. This appeal has been filed against the order of the Ld. CIT(A) confirming the levy of penalty under section 272A(1)(d) of the Act for alleged non-compliance with statutory notices. Before the Ld. CIT(A), the appeal was dismissed ex parte for non-prosecution.

In the interest of justice, and considering that the matter has not been examined on merits, we deem it appropriate to restore the issue to the file of the Ld. CIT(A) for de novo adjudication. The Ld. CIT(A) shall consider the merits of the case afresh and pass a speaking order after affording adequate opportunity of being heard to the assessee.

10. In the result, the appeal of the assessee is allowed for statistical purpose.

11. As a result, all the appeals filed by the assesses **ITA No. 6077,6078 & 6129/Mum/2025** are allowed for statistical purpose.

Order pronounced in the open court on 28/11/ 2025

Sd/-

(GIRISH AGRAWAL)
ACCOUNTANT MEMBER
Mumbai,दिनांक/Dated: 28/11/2025
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
MUMBAI
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, MUMBAI